

SENATE BILL NO. 409

INTRODUCED BY S. GALLUS

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT OF A MEDICAL EXAMINATION FOR ISSUANCE OF A MARRIAGE LICENSE; AMENDING SECTIONS 40-1-202, 40-1-203, AND 40-1-311, MCA; AND REPEALING SECTIONS 40-1-204, 40-1-205, 40-1-206, 40-1-207, 40-1-208, AND 40-1-209, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-1-202, MCA, is amended to read:

"40-1-202. License issuance. When a marriage application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the clerk of the district court and paid the marriage license fee of \$30, the clerk of the district court shall issue a license to marry and a marriage certificate form upon being furnished:

(1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time the marriage license is effective or will have attained the age of 16 years and has obtained judicial approval as provided in 40-1-213; and

(2) satisfactory proof that the marriage is not prohibited; ~~and~~

~~—— (3) a certificate of the results of any medical examination required by the laws of this state."~~

Section 2. Section 40-1-203, MCA, is amended to read:

"40-1-203. Proof of age and medical certificate required. ~~(1)~~ Before a person authorized by law to issue marriage licenses may issue a marriage license, each applicant for a license shall provide a birth certificate or other satisfactory evidence of age and, if the applicant is a minor, the approval required by 40-1-213. ~~Each female applicant, unless exempted on medical grounds by rule of the department of public health and human services, shall file with the license issuer a medical certificate from a physician who is licensed to practice medicine and surgery in any state or United States territory or from any other person authorized by rule of the department to issue a medical certificate. The certificate must state that the applicant has been given a standard serological test, that the report of the results of the serological test has been shown to the applicant tested, and~~

1 ~~that the other party to the proposed marriage contract has examined the report of the serological test.~~

2 ~~——— (2) A person who by law is able to obtain a marriage license in this state is also able to give consent~~
3 ~~to any examinations and tests required by this section. In submitting the blood specimen to the laboratory, the~~
4 ~~physician or other person authorized to issue a medical certificate shall designate that it is a premarital test."~~

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6 **Section 3.** Section 40-1-311, MCA, is amended to read:

7 **"40-1-311. Declaration of marriage without solemnization.** (1) Persons desiring to consummate a
8 marriage by written declaration in this state without the solemnization provided for in 40-1-301 ~~must, prior to~~
9 ~~executing the declaration, secure the medical certificate required by this chapter, which shall be firmly attached~~
10 ~~to the declaration and shall be filed by~~ shall file the declaration of marriage with the clerk of the district court in
11 the county where the ~~contract~~ declaration was executed.

12 (2) A declaration of marriage must contain substantially the following:

13 (a) the names, ages, and residences of the parties;

14 (b) the fact of marriage;

15 (c) the name of father and maiden name of mother of both parties and address of each;

16 (d) a statement that both parties are legally competent to enter into the marriage contract.

17 (3) The declaration must be subscribed by the parties and attested by at least two witnesses and
18 formally acknowledged before the clerk of the district court of the county.

19 (4) The fee for filing a declaration is \$30 and ~~shall~~ must be paid to the clerk at time of filing."
20

21 **NEW SECTION. Section 4. Repealer.** Sections 40-1-204, 40-1-205, 40-1-206, 40-1-207, 40-1-208,
22 and 40-1-209, MCA, are repealed.

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